IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13651 of 2004

Between:

Dr. Mannava Radhakrishna Murthy, S/o. Ranga Rao,
6/10, Brodipet, Guntur District.

..... PETITIONER

AND

1 Varanasi Venugopal, S/o. Not Known,
R/o. 603, Swampnalok, S.D. Road, Secunderabad, at present leaving in America (USA).
2 The Station House Officer, Pattabhipuram P.S., Guntur District.
3 The Director General Of Police, A.P., Lakdikapool, Hyderabad.
4 The Government of Andhra Pradesh, Rep. by its Secretary,
Home Department, Secretariat, Hyderabad.
5 The Union of India, Rep. by its Ministry of External Affairs,
New Delhi.
6 The Union of India, Rep. by its Ministry of Home Affairs,
New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents 2 to 6 not taking any steps for extradition of the 1st respondent herein in accordance with the extradition treaty with U.S.A in spite of giving representations and issue of various orders of this Hon'ble Court in similar type of cases is illegal, arbitrary and violation of constitutional provisions and other laws consequently direct the respondents to initiate action of extradition of the 1st respondent in accordance with the extradition treaty with U.S.A.

Counsel for the Petitioner : MR. KOONA REDDY ANJI REDDY

Counsel for the Respondents 5 & 6 : MR. A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for the respondents 2 to 4 : G.P. for Home.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.13651 OF 2004

-

ORDER :

On the basis of the complaints made by the petitioner under Sections 138 and 142 of the Negotiable Instruments Act, CC.No. 367 of 2000 and CC.No.368 of 2000 on the file of the Court of the VI-Addl. Munsif Magistrate, Guntur, have been registered against the first respondent herein. The petitioner states that since the 1st respondent / accused remained absent, the learned Munsif Magistrate issued non-bailable warrants on 22-11-2000, however the same could not be executed since the 1st respondent left for U.S.A. having obtained Visa fraudulently. The petitioner states that he made a representation before the respondents herein as well as the American Consulate General bringing to their notice that the non-bailable warrants are pending against the 1st respondent, but they failed to take any steps for extradition of the 1st respondent. Hence, this writ petition seeking a Writ of Mandamus declaring the alleged action on the part of the respondents 2 to 6 in not taking any steps for extradition of the 1st respondent in accordance with the extradition treaty with U.S.A is arbitrary and illegal.

The learned Counsel for the petitioner in support of his contentions relied upon a decision of this Court in GLORY SILVA MARLAPUDI v. DR. PREM KUMAR MARLAPUDI.

In the said decision, having regard to the fact that a clear case was made out that the 1st respondent therein was trying to avoid the process of criminal law and having considered the relevant provisions of Cr.P.C., Extradition Act, 1962, the Extradition Treaty and the Mutual Assistance Treaty, this Court held that the offence under Section 498-A of the Indian Penal Code alleged against the 1st respondent therein falls within the extradition offence and accordingly disposed of the writ petition directing the official respondents to initiate action for extradition of the 1st respondent therein.

In the case on hand, the only document filed by the petitioner is a copy of the orders passed by the Court of VI-Addl. Munsif Magistrate, Guntur dated 22-11-2000 and 15-12-2000 whereunder non-bailable warrants were issued against the 1st respondent herein. Except the statement of the petitioner in his affidavit, nothing has been placed before this Court to show that the said NBWs were not executed nor there is any material to show that the petitioner is not residing in India as on today. Even the stage of the C.C.Nos.367 of 2000 and 368 of 2000 is not known. Whereas the NBWs were issued in November, 2000, this writ petition has been filed on 2-8-2004. In the circumstances, I am not inclined to grant the Mandamus as prayed for. However, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to make an appropriate application before the respondents 2 to 6 herein to take the necessary steps for extradition of the 1st respondent alleged to be residing in U.S.A. If any such representation is made together with the supporting material, the respondents 2 to 6 shall consider the same and after making the necessary enquiry into factual aspects, if satisfied that it is a fit case for extradition of the 1st respondent herein, shall take the necessary steps in accordance with law.

The Writ Petition is accordingly disposed of. No costs.

_____

23rd February, 2005.

gbs

To

1. The Station House Officer, Pattabhipuram P.S., Guntur District.
2. The Director General Of Police, A.P., Lakdikapool, Hyderabad.
3. The Secretary, Government of Andhra Pradesh, Home Department, Secretariat, Hyderabad.
4. The Ministry of External Affairs, Union of India, New Delhi.
5. The Ministry of Home Affairs, Union of India, New Delhi.

6. Two CD copies

7. Two CCs to G.P. for Home, High Court of AP Bldgs, Hyderabad (OUT).